

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

IN ADMIRALTY

CASE NO.: 2:23-cv-303-JES-KCD

IN THE MATTER OF:

THE COMPLAINT OF RANDAL TOCA
AS OWNER OF THE 1994 70'
HATTERAS M/Y MADAME MUSIQUE,
bearing HIN HATDP4421394 and ON
999308, and its ENGINES, TACKLE,
APPURTENANCES, EQUIPMENT,
ETC., for EXONERATION FROM OR
LIMITATION OF LIABILITY,

Petitioner.

_____ /

**ORDER APPROVING *AD INTERIM* STIPULATION OF VALUE, DIRECTING
ISSUANCE OF MONITION AND INJUNCTION**

A Complaint having been filed herein on May 2, 2023 by Petitioner Randal Toca, as Owner of the 1994 70' HATTERAS M/Y MADAME MUSIQUE, bearing HIN HATDP4421394, its Engines, Tackle, Appurtenances, Equipment, Etc. ("Petitioner Vessel"), for exoneration from and/or limitation of liability as provided for in 46 U.S.C. §§ 30501 *et seq.* and pursuant to Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure, and also contesting its liability independently of the limitation of liability claims under said Acts, Treaty or Code for any loss, damages, deaths, personal injuries, damage or destruction of property or other occurrences arising from the incident which occurred on or about September 28, 2022, on the navigable waterways of or about Ft. Myers, Florida, as further described in the Petition for Limitation,

and said Complaint also stating the alleged facts and circumstances on which such exoneration from or limitation of liability is claimed;

And Petitioner, having deposited with the Court as security for the benefit of Claims, an *Ad Interim* Stipulation of Value, as required by the rules of this Court and by the law;

IT IS ORDERED the Motion to Approve the Ad Interim Stipulation, Enter Monition, and Enter Injunction (Doc. 3) is **GRANTED**. The *Ad Interim* Stipulation for the amount of \$0 is accepted as *Ad Interim* Stipulation for the purpose of this action and it is approved as to form and quantum.

IT IS FURTHER ORDERED that Petitioners and any Claimant who may properly become a party hereto may contest the amount of value of Petitioner's interest in the Vessel as fixed in said *Ad Interim* Stipulation, subject to such increases or decreases in the amount of such Stipulation, together with adequate security, as the Court may from time to time order according to the rules and practices of this Court may adjudge.

IT IS FURTHER ORDERED that if the amount of the *Ad Interim* Stipulation is not contested by any Claimant herein, said Stipulation shall stand as a Stipulation for Value and an appraisal by a Commissioner will not be required.

IT IS FURTHER ORDERED that a Monition issue out of this Court against all persons or corporations claiming damage for any and all loss, destruction, damage, injuries, and/or death allegedly as a result of the occurrences and happenings recited in the Complaint, to file their respective claims with the Clerk of this Court and to serve on, by mail or email, the attorneys for Petitioner copies thereof on or before **July 3, 2023**, and that all persons or corporations so presenting claims and desiring to contest the allegations of the Complaint shall file an answer to the Complaint in this Court and shall serve on or mail or email to the attorneys for the Petitioner copies thereof, or be defaulted.

IT IS FURTHER ORDERED that a public notice of said Monition be given by publication as required by Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Middle District of Florida, once each week for four successive weeks in a newspaper in general circulation in Lee County prior to the date fixed for the filing of claims in accordance with Supplemental Rule F and that no later than the date of the second weekly publication, a copy of said notice to be mailed by Petitioner to every person or corporation known by the Petitioner to have a claim against Petitioner arising out of the incident set forth in the Complaint.

IT IS FURTHER ORDERED that the commencement or further prosecution of any action, suit or proceeding in any court whatsoever, and the institution and prosecution of any suits, actions or legal proceedings, of any nature or description whatsoever, in any court whatsoever, except in these proceedings, in respect to any claim arising out of, or connected with the incident set forth in the

Complaint herein, be and the same are hereby STAYED AND RESTRAINED until the final determination of this proceeding.

IT IS FINALLY ORDERED that the service of this Order as a restraining order in this District may be made in the usual manner as any other district of the United States by delivery by the Marshal of the United States for such District of a certified copy of this Order on the person or persons to be restrained or to their respective attorneys, or alternatively, by mailing a conformed copy of it to the person or persons to be restrained or to their respective attorney.

ENTERED in Fort Myers, Florida on May 4, 2023.



Kyle C. Dudek
United States Magistrate Judge